

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

TIM GREEN,

Plaintiff,

v.

AMTECH, LLC, a Delaware
Corporation; BLACKFORD CAPITAL
ASSOCIATES, LLC, a California
Corporation; COMPOSITES
CONSOLIDATION COMPANY, LLC, a
Delaware Corporation; DOUG
CHRISTIE, an Individual; KIM
BRAZELL, an Individual; BILL
BUSHBAUM, an Individual,

Defendants.

CASE NO. CV-10-3022-EFS

**ORDER GRANTING PLAINTIFF'S MOTION
TO DISMISS DEFENDANTS'
COUNTERCLAIMS**

Before the Court, without oral argument, is Plaintiff Tim Green's Motion to Dismiss Defendants' Counterclaims, ECF No. 35. Plaintiff asks the Court to dismiss Defendants' state-law counterclaims because the Court lacks the power to exercise supplemental jurisdiction over Defendants' state-law claims or, in the alternative, the Court should decline to exercise supplemental jurisdiction over the inadequately plead state-law claims. Defendants oppose the motion, contending the Court should exercise supplemental jurisdiction over their four state-law claims: defamation, harassment, cyberstalking, and tortious interference with a business relationship.

1 After reviewing the record and relevant authority, the Court is fully
2 informed. For the reasons set forth below, the Court grants Mr.
3 Green's motion: Defendants' counterclaims are dismissed for lack of
4 jurisdiction.

5 **A. Background¹**

6 From June 2008 to December 8, 2009, Mr. Green worked for
7 Defendant Amtech, a company that designs and manufactures composite-
8 based products for the U.S. military and private commercial
9 businesses. Third Am. Compl., ECF No. 31 ¶¶ 1.1 & 3.1. Mr. Green
10 worked first as an Engineering Manager and then as a Program Manager
11 who reported directly to Defendant Doug Christie, Amtech's CEO. *Id.* ¶
12 1.2.

13 While performing his duties at Amtech, Mr. Green became
14 concerned that Amtech's products did not comply with the U.S.
15 military's specifications. *Id.* ¶¶ 4.16-4.24. In addition, Mr. Green
16 discovered that Amtech was inflating its billing rates on budgetary
17 documents submitted to the U.S. military. *Id.* ¶¶ 4.1 - 4.15. Mr.

19 ¹ The facts set forth in this section pertaining to Mr. Green's
20 retaliation claim are taken from Mr. Green's Third Amended
21 Complaint, ECF No. 31. See *Broam v. Bogan*, 320 F.3d 1023, 1028
22 (9th Cir. 2003) (construing the pleadings in the light most
23 favorable to the pleading party). The facts set forth in this
24 section pertaining to Defendants' counterclaims are taken from
25 Defendants' Answer and Counterclaims, ECF No. 32. Cf. *id.*
26 Statements from emails are taken from the emails attached to ECF
No. 34.

1 Green also learned that Amtech devised a scheme to receive payment
2 from the U.S. government for products that it had not yet
3 manufactured. *Id.* ¶¶ 4.25-4.29.

4 Mr. Green disclosed his concerns with such conduct to Amtech's
5 owners and controllers, Defendants Mr. Christie, Kim Brazell, and Bill
6 Bushbaum. *Id.* ¶¶ 4.15, 4.22, 4.30. Mr. Green advised that he would
7 not sign off on documents that contained fraudulent information. *Id.*
8 ¶¶ 4.19 & 4.20. Shortly after Mr. Green wrote a letter on November
9 25, 2009, to Mr. Christie detailing his concerns, Amtech terminated
10 Mr. Green's employment on December 8, 2009. *Id.* ¶ 4.33.

11 After Amtech terminated Mr. Green's employment, Mr. Green began
12 emailing Amtech personnel in late 2009 and early 2010. Mr. Green sent
13 numerous emails; some of these emails contained computer viruses. Mr.
14 Green's first emails to Kelly Pippins, Amtech's Human Resource
15 Manager, addressed paycheck issues. A series of emails followed, and
16 on December 22, 2009, Mr. Green emailed Ms. Pippins and Mr. Christie,
17 stating, "You are liars and cheats to your employees, suppliers and
18 customers." ECF No. 34, Ex. A. Within days of that email, Mr. Green
19 also emailed,

20 Are you all truly aware of the path Doug is taking this
21 down? Do you truly understand what I know, who I know and
22 the laws in place that will protect me?
Very poor business decisions happening that could destroy
all of you and your investments and futures.

23 *Id.* Then on December 27, 2009, Mr. Green emailed Mr. Bushbaum, Mr.
24 Christie, and Mr. Brazell, "I hope your Xmas was as joyful as mine. I
25 am looking forward to our Happy New Year together; I'll be the one
26 riding a Pale Horse." *Id.*

1 On April 22, 2010, Mr. Green filed this False Claims Act lawsuit
2 alleging in part that he was wrongfully terminated in violation of 31
3 U.S.C. § 3730(h), which prohibits an employer from discharging an
4 employee who engages in a lawful act in furtherance of an effort to
5 stop his employer's fraudulent activities against the U.S. government.
6 ECF No. 1. After the U.S. declined to participate in this lawsuit,
7 ECF No. 15, Mr. Green filed a Third Amended Complaint, which solely
8 seeks relief under § 3730(h). On July 11, 2013, Defendants filed
9 their Answer and Counterclaims, ECF No. 32. Defendants' harassment,
10 cyberstalking, defamation, and tortious interference with business
11 relationships counterclaims are based on Mr. Green's post-termination
12 conduct. *Id.* at 5-6. On July 31, 2013, Mr. Green filed the instant
13 motion to dismiss. ECF No. 35

14 **A. Standard**

15 A federal district court is a court of limited jurisdiction:
16 authority to hear a matter must be specifically given to it by
17 Congress. *K2 Am. Corp. v. Roland Oil & Gas, LLC*, 653 F.3d 1024, 1027
18 (9th Cir. 2011). Although a federal court typically does not have
19 jurisdiction over state-law claims, a district court may exercise
20 supplemental jurisdiction over state-law claims if they are "so
21 related to claims in the action within such original jurisdiction that
22 they form part of the same case or controversy under Article III of
23 the United States Constitution." 18 U.S.C. § 1367(a). A state-law
24 claim is "part of the same case or controversy," *id.*, when it shares a
25 "'common nucleus of operative fact' with the federal claims and the
26 state and federal claims would normally be tried together."

1 *Bahrampour v. R.O. Lampert*, 356 F.3d 969 (9th Cir. 2004) (quoting *Trs.*
2 *of the Constr. Indus. & Laborers Health & Welfare Trust v. Desert*
3 *Valley Landscape Main., Inc.*, 333 F.3d 923, 925 (9th Cir. 2003)
4 (internal quotations and citations omitted)). If a state claim forms
5 part of the same case or controversy as a federal claim, the court is
6 to then exercise supplemental jurisdiction unless 1) the state claim
7 raises a novel or complex issue of state law, 2) the state claim
8 substantially predominates over the federal claim(s), 3) all of the
9 federal claims have been dismissed, or 4) there are compelling reasons
10 to decline jurisdiction. 28 U.S.C. § 1367(c)(1-4).

11 **B. Analysis**

12 Upon review of Mr. Green's 31 U.S.C. § 3730 wrongful-termination
13 claim and Defendants' state claims, the Court concludes Defendants'
14 post-termination state claims are not "so related" to the wrongful-
15 termination claim to "form part of the same case or controversy." 28
16 U.S.C. § 1367. Unlike Mr. Green's wrongful-termination claim,
17 Defendants' counterclaims focus solely on Mr. Green's post-termination
18 conduct. Accordingly, Mr. Green's claim and Defendants' counterclaims
19 do not involve one transaction, scheme, occurrence, or venture.
20 Although many of the witnesses may be the same, the scope of testimony
21 and evidence presented will be substantially different in order to
22 support or defend against Defendants' post-termination state claims.
23 Therefore, because the Court finds that Defendants' counterclaims do
24 not arise out of the same transaction or occurrence as Mr. Green's
25 wrongful-termination claim, the Court lacks supplemental jurisdiction
26 to hear Defendants counterclaims as they are not part of the same case

1 or controversy. As a result, the Court need not engage in § 1367's
2 second analytical step.

3 **C. Conclusion**

4 For the above-given reasons, **IT IS HEREBY ORDERED:**

5 1. Plaintiff's Motion to Dismiss Defendants' Counterclaims,
6 **ECF No. 35**, is **GRANTED**.

7 2. Defendants' four counterclaims are **DISMISSED** for lack of
8 jurisdiction.

9 **IT IS SO ORDERED.** The Clerk's Office is directed to enter this
10 Order and provide copies to all counsel and the U.S. Attorney's
11 Office.

12 **DATED** this 17th day of September 2013.

13
14 s/ Edward F. Shea
15 EDWARD F. SHEA
16 Senior United States District Judge
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